

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

THE CITY OF BRISTOL, TENNESSEE, )

Plaintiff, )

v. )

THE CITY OF BRISTOL, VIRGINIA, )

Defendant. )

Case No. 1:22CV00023

**STIPULATION BETWEEN THE PARTIES**  
**AMENDMENT TO CONSENT ORDER**

Pursuant to Section IV(3) of the Consent Final Order For Permanent Injunction and Other Relief, Plaintiff The City of Bristol, Tennessee ("Bristol TN"), by and through its undersigned counsel, and Defendant The City of Bristol, Virginia ("Bristol VA"), by and through its undersigned counsel, hereby stipulate as follows:

On March 21, 2024, the Circuit Court of the City of Richmond in *The Commonwealth of Virginia et al. vs. The City of Bristol, VA*, Case No. CL230000274-00 received and filed Notice of an amendment to the Consent Decree entered into between the Virginia Department of Environment Quality and the City of Bristol, Virginia. (See **Exhibit 1**). The parties to Case No. 1:22CV00023 are now stipulating to the same amendment to the Consent Order issued by this Court. The amendment extends the deadline for installation of the Ethylene Vinyl Alcohol ("EVOH") Cover until an acceptable rate of settlement is reached, or until December 1, 2026, whichever occurs first. Following is the amended language to Appendix A, Section 6 Intermediate Cover and EVOH Cover System, subsection iv of **the Consent Decree** in *The Commonwealth of Virginia et al. vs. The City of Bristol, VA*:

**Appendix A, Section 6 Intermediate Cover and EVOH Cover System**

iv. Install the EVOH cover system once an acceptable rate of settlement has been reached, but not to exceed December 1, 2026. To determine an acceptable rate of settlement, Bristol shall conduct EVOH deployment suitability assessments ("Assessments") of SWP 588 based on the itemized settlement criteria listed below. The first Assessment shall be completed by March 28, 2024, and submitted to DEQ within 10 business days. Each subsequent Assessment of SWP 588

shall be repeated at least every 3 months, and submitted to DEQ within 10 business days, until an acceptable settlement rate for EVOH cover system deployment is reached.

A cumulative summary of all the Assessments, to date, must be provided to DEQ for concurrence, prior to the determination to proceed with the deployment of the EVOH cover system. Bristol's cumulative Assessment summary shall include a determination, applying the itemized criteria below, on whether SWP 588 has reached an acceptable settlement rate to allow for safe and lasting deployment of the EVOH cover system. Determination that SWP 588 has reached an acceptable settlement rate shall require DEQ concurrence. Bristol shall properly deploy the EVOH cover system within 6 months of DEQ's concurrence, to be extended to a total of 9 months, if DEQ determines such extension is warranted. Bristol shall endeavor to properly deploy the EVOH cover system as soon as practicable. Prior to the proper deployment of the EVOH cover system, Bristol shall re-shape the existing interim cover surface of the landfill to direct storm water runoff to storm water management (SWM) basins located at appropriate points on the surface of the landfill.

EVOH deployment suitability assessments of SWP 588 shall be based on the following settlement criteria:

- The rate of settlement of the waste has transitioned to a state of long-term secondary compression with the settlement varying approximately logarithmically with time;
- Strain rate at all settlement plates is less than 1% per year, or a rate identified as consistent with secondary compression of municipal solid waste. Strain rate is defined here as the ratio of the change in vertical elevation of the surface of the waste at a given location to the thickness of the waste at that location per unit time; and
- Surface cracks due to settlement having a width less than 1-inch.

Based on the foregoing, the Court accepts this stipulation and amends the Consent Final Order entered in this case to incorporate the revision to, Appendix A, Section 6.iv.

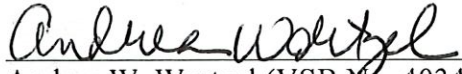
IT IS SO ORDERED.

Date:

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UNITED STATES DISTRICT JUDGE

Seen and Agreed To:



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